

CLERK'S OFFICE U.S. DIST. COURT  
AT ROANOKE, VA  
FILED  
JUL 18 2006  
JOHN F. CORCORAN, CLERK  
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**v.**

**Civil Action No. 7:05cv00227**

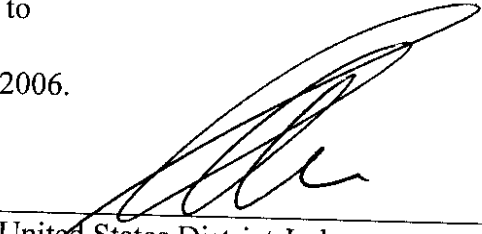
**By: Samuel G. Wilson**  
**United States District Judge**

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after entry of the order being appealed. The court lacks jurisdiction<sup>2</sup> to grant a motion filed beyond the 180-day outer time limit. See Hensley v. Chesapeake & O. Ry. Co., 651 F.2d 226, 228 (4th Cir. 1981) (“The time requirements of Rule 4(a) are both mandatory and jurisdictional. Timely filing of a notice of appeal deprives a district court of jurisdiction over a case, and so does expiration of the time to file.”). The court denied Graham’s motion for reconsideration by order entered May 12, 2005, meaning Graham had until November 8, 2005 (180 days), to file his motion to reopen, regardless of when he received notice of the order. Even if the court considers Graham’s motion filed on the day he signed it, November 15, 2006, Graham missed the deadline by a week. Accordingly, the court finds that it lacks jurisdiction to grant Graham’s motion to reopen, and it is hereby **ORDERED** and **ADJUDGED** that Graham’s motion to reopen is **DENIED**.

The Clerk is **DIRECTED** to transmit the record, as supplemented by this order, to the Court of Appeals for the Fourth Circuit and to send certified copies of this order to the petitioner and counsel of record for the respondent and to

**ENTER:** This 18th day of July, 2006.

  
\_\_\_\_\_  
United States District Judge

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<sup>2</sup>Rule 4(a)(6) has all the hallmarks of a jurisdictional limitation. However, even if it were a non-jurisdictional “claim processing rule,” as described by the Supreme Court in Eberhart v. U.S., it would still be incumbent upon the court to “observe the clear limits” of the Federal Rules of Appellate Procedure and to deny Graham’s motion. See 126 S.Ct. 403, 404-7 (2005).